

IN THE SUPREME COURT OF THE STATE OF DELAWARE

| | | |
|--------------------------|---|-----------------------|
| IN THE MATTER OF THE | § | |
| PETITION OF JAMES ARTHUR | § | No. 131, 2009 |
| BIGGINS FOR A WRIT OF | § | |
| MANDAMUS. | § | Cr. ID No. 9609015504 |

Submitted: April 2, 2009

Decided: June 23, 2009

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 23rd day of June 2009, it appears to the Court that:

(1) The petitioner, James Arthur Biggins, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of mandamus to compel the Superior Court to consider his motion for postconviction relief filed on February 23, 2009. The State of Delaware has filed an answer and motion to dismiss.

(2) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.¹ As a condition precedent to the issuance of the writ, the petitioner must demonstrate that (a) he has a clear right to the performance of the duty; (b) no other adequate remedy is

¹ *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

available; and (c) the trial court has arbitrarily failed or refused to perform its duty.²

(3) A review of the Superior Court docket in Biggins' case reflects that the Superior Court denied Biggins' motion for postconviction relief on April 29, 2009.³ Accordingly, Biggins' petition for a writ of mandamus is moot. Moreover, Biggins has failed to demonstrate that the Superior Court arbitrarily failed or refused to perform a duty owed to him. As such, Biggins' mandamus petition must be dismissed.

NOW, THEREFORE, IT IS ORDERED that Biggins' petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

² *Id.*

³ *State v. Biggins*, Del. Super., Cr. ID No. 9609015504, Graves, J. (Apr. 29, 2009).